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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,536	10/14/1999	DANIEL J. POWERS	10981567-1	9017

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PHILIPS ELECTRONICS NORTH AMERICAN
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TARRYTOWN, NY 10591

EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/418,536

Applicant(s)

POWERS ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/12/02 (Amendment) and 2/20/03 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 2/20/03 has been entered.

Claim Rejections - 35 USC § 102

2. Claims 1-3, 5-11, 14 and 18-28 stand rejected under 35 U.S.C. 102(e) as being anticipated by Skelton et al. (US 6292692).

Skelton et al. disclose a defibrillation device operated under pass control enabling the device to be readily reconfigured for use by individuals with different levels of training (col. 4 @ 21-24; col. 5 @ 26-46). The treatment device (10) includes a printer (60), a display (24), keys (68) for menu selection, and keys (70) for pass-code entry and feature setting (col. 10 @ 15-52). Audio recording is disclosed (col. 9 @ 54-56; col. 7 @ 66 – col. 8 @ 4). The outputs of various treatment device modules can be graphically displayed (col. 9 @ 64-67). One, two, or three waveforms can be displayed (figure 4 (98 a-c); col. 12 @ 10-29). A treatment summary is created that records pace markers, time indications and key events (col. 7 @ 26-35). Access to the recorded log can be restricted (col. 10 @ 53 – col. 11 @ 27).

Skelton et al. disclose:

- 1) deployment of a defibrillator (col. 3 @ 40-42),
- 2) monitoring of the ECG data (col. 3 @ 25-29; col. 5 @ 37-39), and

3) recording the ECG data and display same in an incident review mode on the same screen. The pulse data (col. 4 @ 12-16) including the waveform (col. 8 @ 24-26) is provided to supplement the defibrillation therapy. The data is recorded for review (col. 6 @ 15-25); accumulated ECG data can be reviewed (col. 12 @ 13-22). The data displayed in figure 4 reference number 98 (a) is an ECG trace. The means to control which waveform is displayed is disclosed in figure 10, reference number 162. The ECG waveform displayed on the screen is controlled as shown in figure 10 using the buttons (70) associated with the "Trace Menu" window (162). The waveform could be the current waveform or a historical waveform (col. 6 @ 15-25; col. 12 @ 13-22).

The Applicant's arguments have been fully considered, but they are not convincing.

The Applicant appears to argue that the Skelton et al. device is a multifaceted passcode controlled system with modules for different applications, some modules associated with skill levels, hence the instant invention is not disclosed. The Examiner disagrees. The Skelton et al. device has more functionality than the instant invention claims, but the instant invention is taught by portions of the Skelton et al. device as noted in the second and third paragraphs of this section of this office action.

The Applicant asserts Skelton et al. do not teach displaying the recorded ECG data on the defibrillation screen of the defibrillator while the patient is being monitored. The Examiner disagrees. Skelton et al. teach patient monitoring and data display as two separate activities; the data display does not limit the patient monitoring. Skelton et al. monitor the pulse data/ ECG/ pulse waveform of the patient (col. 4 @ 12-16 and 63-65; col. 5 @ 37-39; col. 8 @ 24-26). The monitoring is ongoing/ continuous (col. 3 @ 24-29; col. 4 @ 63-65) enabling the user to review any of the historical data accumulated by the device (col. 12 @ 14-16) and/ or enabling the ECG analysis module to send a permissive signal to the SAED defibrillator medical

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treatment module so the user can discharge the defibrillation capacitors and treat the patient (col. 5 @ 49-55). Skelton et al. teach data display and on going data monitoring, hence Skelton et al. disclose the claimed invention.

Claim Rejections - 35 USC § 103

3. Claims 4 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Skelton et al. (US 6292692) in view of Rockwell et al. (US 6141584). As discussed in paragraph 2 of this action, Skelton et al. disclose the claimed invention except for the replay step occurring automatically without user activation and when the patient is disconnected from the device.

Rockwell et al. disclose a defibrillator and communication system and teach that an event summary can be generated automatically at handoff (col. 9 @ 36-38; col. 12 @ 12-16). It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the replay step occurring automatically without user activation and when the patient is disconnected from device in the Skelton et al. device in order to enable the care givers to review the data periodically and at critical times, such as movement to a new machine or situation, to ensure patient care is progressing in an optimum fashion, and to ensure key treatments and historical events are properly noted.

4. Claims 13 and 15-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Skelton et al. (US 6292692) in view of Powers et al. (US 5879374). As discussed in paragraph 2 of this action, Skelton et al. disclose the claimed invention except for:

- activation of the incident review mode in response to insertion of the battery, and
- offering the replay option when the defibrillator is turned off or when the battery is inserted.

Powers et al. disclose an external defibrillator with automatic self-testing prior to use.

Powers et al. teach that it is known to use the insertion of a battery as the trigger to automatically generate a test signal. The test signal initiates a plurality of preset self-tests or activities within the defibrillator (col. 2 @ 57 – col. 3 @ 10). It is an obvious design choice that the insertion of the battery could activate the incident review mode and/or initiate an offer to replay the recorded data. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the battery insertion to trigger the activation of the incident review mode and/ or the replaying of the stored data in the Skelton et al. device in order to gain quicker access to the incident review mode and/or the stored data.

Powers et al. teach that it is known use a gate array as a system monitor in the scenario of low power. Low power is viewed as equivalent to an impending system shutdown, hence it is an obvious design choice to have the ASIC (application specific integrated circuit) perform various tasks at the low power or shutdown point including offering to replay the stored data. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the offer to replay the stored data at shutdown in the Skelton et al. device in order to keep the rescue personnel advised of the events to date in the rescue operation.

Statutory Basis

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
3/8/03

Angela D. Sykes

ANGELA D. SYKES
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